

Goodman
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Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Professional Services Unlimited, Inc.

File: B-245453

Date: December 30, 1991

Frank H. Russell for the protester.
Kevin J. Bovee for Management Technical Services, Inc., and
Larry Govro for ServiceMaster S. W. Portland, interested
parties.
Herbert F. Kelley, Jr., Esq., and Captain Gerald P.
Kohns, Esq., Department of the Army, for the agency.
V. Bruce Goddard, Esq., and Henry R. Wray, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

1. Protest that solicitation's pricing format is ambiguous is denied where protester's interpretation is not reasonable given the plain language of the request to quote monthly service prices as opposed to daily service prices. The fact that quoting prices on a monthly basis will create some risk for offerors does not render it inappropriate since offerors are expected to consider the degree of risk in calculating their prices.

2. Protest that agency should state a daily method of computing prices rather than the monthly method in the solicitation is denied since an agency is responsible for determining its needs and for drafting its requirements and the protester has not shown that the agency's method is unreasonable.

DECISION

Professional Services Unlimited, Inc. (PSU) protests an alleged ambiguous pricing schedule in request for proposals (RFP) DAKF57-91-R-0009, issued by the Department of the Army for custodial services at Fort Lewis, Washington. The RFP, issued on July 15, 1991, contemplates the award of a requirements contract for a base year and three option years.

We dismiss the protest in part and deny the protest in part.

Section B of the solicitation calls for the provision of various custodial services for given work areas consisting of a specified number of square feet under several line items. The line items are typically described in one of two ways. They either call for custodial services on a certain number of days a week, or they call for other specified work, such as floor stripping and rewaxing, on an "as required" basis rather than a scheduled basis. Offerors are required to compute their unit prices using a unit of measure of square feet per month. The solicitation's Technical Exhibit 4 describes the buildings and areas which are included within a specific line item's quantity.

PSU contends that it is standard industry practice to use a "per occurrence" unit of measure for pricing--specifically, the price to be paid per square foot of area each time that the area is serviced. Thus, if an area of 1000 square feet is to be cleaned daily at a rate of 10 cents per square foot, PSU states it would bill \$100.00 for each day the area was cleaned. PSU argues that unless the Army clarifies the unit of measure, it is possible that offerors may calculate their prices either on the per occurrence rate or on the per month rate which PSU says the contracting officer implies is the correct method.

PSU states that the result of offerors' confusion will be variations in the maximum total annual area to be serviced. In cases where other than 7 days a week or 1 day a week service is required, the actual number of service days per month will vary. PSU states that if changes in square footage occur during the month, the unit price will have to be recalculated or prorated to account for the change.

In order to eliminate these alleged uncertainties, PSU suggests that the level of service required in each line item be fixed to the exact square footage of each building set out in Technical Exhibit 4. PSU also suggests changing the unit of measure from square feet per month to square feet per day for each line item of service.

The Army responds that PSU fundamentally misunderstands the nature of the solicitation, which calls for a requirements contract. Since all line items are to be obtained on a requirements basis, there is no specified level of service that will be ordered. For example, the Army states, it may not be necessary to order services for one of the buildings in a line item during a specific month because the building may be closed for renovation. Thus, the area of space to be cleaned may be lower than the estimated amounts for a given month. The Army contends that under the RFP it has the ability to change the quantities ordered on a monthly basis, it will do so depending on its needs, and it does not wish

to be bound to always order service at a specified square foot level as the protester wishes. The Army also objects to using square feet per day as the unit of measurement because that would make it difficult to compute cost reductions.

The Army states that the pricing format in Section B has been used for several years without objection or problem, as evidenced by the fact that 32 offers were received under the previous contract for these services and a substantial number of offers were received for this solicitation. With respect to PSU's contention that the number of cleaning days in a month will vary with the number of days in a month, the Army states that offerors must take this into account and must accept some degree of risk in preparing their offers.

In its comments on the Army's report PSU states that the different methods of interpreting unit of measure mean that offerors can view the maximum requirement for total annual area to be serviced as being either of two possible amounts.¹ The two amounts differ from each other by around 1 percent, and PSU contends this variance may result in significant differences in initial pricing by offerors.

An agency is responsible for determining its needs and drafting requirements that reflect those needs, since it is most familiar with how the supplies or services have been or will be used. Therefore, we will not disturb an agency's determination as to the best method of accommodating its needs, absent a clear showing by the protester that the decision was unreasonable. Morse Watchmans Clock Co. Inc., B-232414, Nov. 29, 1988, 88-2 CPD ¶ 532.

The use of requirements contracting is authorized by Federal Acquisition Regulation § 16.503(b), which states that such contracts may be used when an agency anticipates recurring requirements but cannot predetermine the precise quantity of services needed during a definite period. The agency has the discretion to make a reasonable choice as to the

¹PSU observes in its comments that holidays may account for some of the difference but the RFP is silent on whether cleaning is to be performed on holidays. PSU also now raises alleged deficiencies in the specifications in relation to the accuracy of the square footage to be cleaned. We note that Section F of the RFP states that 10 federal holidays are observed. In any event both of these allegations are raised for the first time in PSU's comments. We will not consider an untimely, piecemeal presentation of the firm's protest. Hadson Def. Sys., Inc.; Research Dev. Laboratories, B-244522; B-244522.2, Oct. 24, 1991, 91-2 CPD ¶ 368.

contract format best suited to its particular needs, Mills Mfg. Corp., B-224004, et al., Dec. 18, 1986, 86-2 CPD ¶ 679. Here, the agency's requirements may vary due to such factors as the closing and reopening of various buildings during the contract period so a requirements contract is appropriate.


A solicitation must contain sufficient information to allow offerors to compete intelligently and on an equal basis. University Research Corp., B-216461, Feb. 19, 1985, 85-1 CPD ¶ 210. Specifications must not be ambiguous--that is, subject to more than one reasonable interpretation. A & C Building and Indus. Maintenance Corp., B-230270, May 12, 1988, 88-1 CPD ¶ 451. However, there is no legal requirement that a competition be based on specifications drafted in such detail as to eliminate completely any risk or remove every uncertainty from the mind of every prospective offeror. Id.

In our view, the pricing schedule's unit of measure in the instant solicitation is neither ambiguous nor unreasonable. We fail to see how PSU or any offeror could misinterpret the line item requirements as calling for pricing on a daily basis. The plain language of the pricing format in Section B calls for unit prices on a monthly basis. This is reinforced by the lack of complaint from the numerous other offerors who have submitted proposals in this and the prior similar solicitation. Thus, there does not appear to be any confusion or general dissatisfaction among offerors concerning the Army's pricing format. In fact, contrary to PSU's contention, one of the interested parties asserts that the solicitation's pricing format is standard in the industry. PSU has not produced any evidence to support its interpretation of the industry standard.

With regard to PSU's complaint about risk, it is within the agency's administrative discretion to solicit a proposed contract which maximizes risks on the contractor and minimizes administrative burdens on the government. Jewett-Cameron Lumber Corp.; Kennedy-Johnsen Lumber, Inc.; Broadview Lumber Co.; Rolando Lumber Co., Inc., B-229582; B-229582.2; B-229582.6, B-229582.7, March 15, 1988, 88-1 CPD ¶ 265. Here offerors can determine the maximum days a month that service may be required. The fact that service days

may vary depending on the length of the month can be factored into the offeror's prices. We do not find this risk to be unreasonable.

The protest is dismissed in part and denied in part.


James F. Hinchman
General Counsel